



REGULAR MEETING
PUBLIC EMPLOYEES' RETIREMENT BOARD

June 14, 2007

The regular meeting was called to order by Vice President John Paull at 8:30 a.m. Thursday, June 14, 2007. Roll call was taken with all members of the Board being present; Ms. Elizabeth Nedrow attended via telephone conference. Board members and staff present were:

Elizabeth Nedrow, President
John Paull, Vice President
Robert Griffith, Member
Jay Klawon, Member
Troy McGee, Member
John Nielsen, Member
Terry Smith, Member
Roxanne Minnehan, Executive Director
Melanie Symons, Legal Counsel
Scott Miller, Legal Counsel
Anna Garza, Executive Assistant

OPEN MEETING

Jim Kembel, MACOP/MPPA/TIAA-CREF; Marie Mullarkey, Wells Fargo; Tim Jones, Great West Retirement Services; Rick Ryan, Keith Simendinger, Doug Neil and Jack Trethewey, members of the Montana State Firemen's Association; Lance Zanto, HCBD; and Kim Flatow, Member Services Bureau Chief; Barb Quinn, Fiscal Services Bureau Chief; Kathy Samson, Defined Contributions Bureau Chief; Rob Virts, Training Development Specialist, Carolyn Miller, Administrative Officer; joined the meeting.

MINUTES OF OPEN MEETING

The minutes of the open meeting of May 10, 2007 were presented. Mr. John Paull pointed out a typo on page six of the minutes. Mr. Robert Griffith moved that the minutes of the previous open meeting be approved with corrections. Mr. Jay Klawon seconded the motion. Upon being submitted to vote, the motion was carried with all seven members voting aye.

Public Comment – No public comment.

EXECUTIVE DIRECTOR'S REPORT – Roxanne Minnehan, Executive Director

Worker's Compensation Refunds and Policy Endorsements – Lance Zanto

The Department of Administration (DOA) has created a new unit to manage and oversee the state's workers' compensation program in an attempt to reduce the cost of coverage. Upon initial review they have determined that agencies are entitled to a refund. However, state fund has never returned this "retention return". Lance Zanto has performed most of the work and State Fund has agreed to return a portion of agency premiums. We have received our portion. Mr. Zanto thinks that there is potential for more money to come back to us due to agencies paying for redundant employer liability coverage, which is duplicated in agency general liability coverage through Risk Management. The DOA is asking for 19% of the refund back to cover this year's funding for the new unit. Mr. Zanto appeared before the Board to offer additional explanation. He stated that he has been working with the agencies trying to hold down costs of workers' compensation. They have seen a substantial increase in premium over the last six years. Last year the state's premium as a whole was \$17.5 million. The new pricing that was just received is going to be just over \$18 million. State agencies are statutorily required to insure with Montana State Fund. In his initial review he found that the state is under a retention plan, which means that if you pay premium at the beginning or throughout the year and your losses are less than that premium amount then you get a percentage of that money back. Mr. Zanto, working with State Fund was able to get some of that premium back for all the agencies. When the program started it was under the 06-07 biennium and there wasn't money in the fund for the program. They were going to use the healthcare and benefits reserve to pay for it. The legislative auditor said they couldn't do that. They ended up \$145,000 short in 06-07 biennium funding. Mr. Zanto prefers to offset the "found" money in order to fund his costs. Mr. Scott Miller stated that his only concern is that out of our trust fund we can only pay for benefits and administrative expenses, and that he is having a tough time making an argument that this is administrative expenses. We have no legal obligation to make the donation to DOA. The premiums are paid out of the trust fund; therefore the money that we have received back went back into the trust fund. Mr. Troy McGee suggested for us to be billed for the services from the DOA in order to help us with our argument of it being an administrative expense. Mr. Troy McGee moved to allow the Department of Administration to contact State Fund on MPERA's behalf and that MPERA transfer 19% of the retention return received from State Fund to DOA to fund a portion of the start-up costs of the DOA Workers' Compensation Program provided we receive a bill for the services. Mr. Robert Griffith seconded the motion. The motion carried 7 to 0.

MPERB-GWRS Administrative/Recordkeeping Contract – Melanie Symons

Previously the Board has seen Exhibit 1 of the Administrative/Recordkeeping Contract. In this packet there is the contract itself, Exhibit 1 which is for the 457 Plan, and Exhibit 2 which is for the 401(a) Plan. Last time there was separate contract and exhibits for each plan. This time we combined both plans into one contract. There are a few things in this contract that have changed from the previous contracts. Tim Jones is now our contact person. Ms. Symons pointed out the other changes to the contract. Great-West Life and Annuity is the proper entity as opposed to Great-West Retirement Services. She then discussed the changes to the exhibits. Mr. Jay Klawon moved to accept the agreements for Administrative and Recordkeeping Services. Mr. Robert Griffith seconded the motion. The motion carried 7 to 0.

Ice Miller Tax Consultants – Scott Miller

Mr. Miller explained how we have to execute this contract extension every year. Mr. Robert Griffith moved to approve the Addendum to the Contract for Legal Services between the Board

and Ice Miller to extend the termination of the contract to June 30, 2008. Mr. John Nielsen seconded the motion. The motion carried 7 to 0.

Agency Legal Services – Scott Miller

Mr. Miller explained that the contract is between the Board and the Agency Legal Services Bureau, a division of the Attorney Generals Office, who we use for certain legal services. They like to do a new contract every year. It was discussed that their service fees have gone up. Mr. Troy McGee moved to approve the Interagency Agreement between the Board and the Agency Legal Services Bureau, Legal Services Division of the Montana Department of Justice, for the period from July 1, 2007, through June 30, 2008. Mr. John Nielsen seconded the motion. The motion carried 7 to 0.

Out-of-State Travel Authorizations:

NASRA Conference – Mr. Jay Klawon moved to approve the out-of-state travel authorization allowing Roxanne Minnehan to attend the 2007 annual National Association of State Retirement Administrators Conference in Aventura, Florida, August 3-8, 2007. Mr. Troy McGee seconded the motion. When put to vote, motion carried 7 to 0. Additionally, Mr. Troy McGee made a motion to allow one Board member to attend the annual NASRA Conference. Mr. Robert Griffith seconded the motion; the motion carried 7 to 0.

NAGDCA Conference – Mr. Troy McGee moved to approve the out-of-state travel authorization allowing Melanie Symons, Kathy Samson, and Rob Virts with an amendment to allow up to three Board members to attend the 2007 annual National Association of Government Defined Contribution Administrators Conference in Palm Springs, California, September 15-19, 2007. Mr. Robert Griffith seconded the motion. The motion carried 7 to 0.

Public Pension Plan Trends Teleweb Seminar – Mr. Troy McGee moved to allow Ms. Elizabeth Nedrow and staff to register for the Public Pension Plan Trends Teleweb Seminar. Mr. Robert Griffith seconded the motion. The motion carried 7 to 0.

VCP 125 Plan Agreement – IRS Response – Melanie Symons

Ms. Symons stated that we have still not heard anything back from the IRS. It was then discussed how we could promote a sense of urgency with the IRS. Mr. Troy McGee mentioned possibly bringing it to the attention of Senator Max Baucus. Ms. Symons mentioned that we would be meeting with Ice Miller on July 13, 2007 and we could talk face to face regarding the issue. This is the course of action that was decided on.

Informal Re-consideration – VCP Submission Request, Brand Boyar – Melanie Symons

The Board decided at the April 12, 2007 meeting to deny Mr. Brand Boyar's request to view the VCP submission, due to it being attorney-client privileged information. Mr. Boyar is now asking for the Board's re-consideration. Mr. Boyar is arguing that the VCP Submission is not attorney work product and it is not attorney-client privileged. Ms. Symons found in her research that the IRS has to keep the submission confidential; therefore, release of the information to the IRS did not waive the privileges. This does not, however, change the fact that the Board can release it. Ms. Symons believes that there is nothing in the document that is harmful if released. She stated that possibly continuing to not release the submission is raising red flags that aren't there. Mr. Troy McGee discussed that if the Board releases the filing to Mr. Boyar and his clients, the Board

will then have to release it to anyone wanting to see it, which could prove to be time consuming. Discussion continued in favor of both releasing the submission and not releasing it. Mr. Jay Klawon moved to deny Mr. Boyar's request to review the Board's VCP Filing in the MPERA offices on the basis that the filing constitutes attorney client privileged communication and protected attorney work product. Mr. Robert Griffith seconded the motion. When put to vote the motion failed 3 to 4. Ms. Elizabeth Nedrow, Mr. Terry Smith, Mr. John Paull and Mr. John Nielsen voted nay.

Mr. Terry Smith made a second motion – to permit Mr. Boyar to review the Board's VCP Filing in the MPERA offices, recognizing that such a decision renders the filing public for all purposes. Mr. John Nielsen seconded the motion. The motion passed 4 to 3 in favor. Mr. Jay Klawon, Mr. Troy McGee, and Mr. Robert Griffith voted nay.

Personnel Committee Report – Elizabeth Nedrow

The Committee held a meeting on June 4, 2007. At this meeting an agreement was reached between the bargaining representatives. The Committee agreed to extend the probationary period for new hires from six months to nine months allowing more time to evaluate a new employee's performance. The Committee also agreed to give a portion of the 0.6% discretionary funds that the state statute put in place along with the wage increases, across the board to union members the second year of the biennium. The Committee had initially argued for giving all of the 0.6% to below market employees to advance them to or closer to their target market rate. They compromised and gave a portion of the 0.6% (0.3%) applied across the board the second year of the biennium. The Union is voting today on the tentative agreement.

Investment Consultant RFP – Kathy Samson

On May 25, 2007 we received seven responses back to our RFP for Investment Consultant services for the 457 and Defined Contribution Retirement Plan. The responses were from Arnerich Massena and Associates, RV Kuhns, Wilshire Consulting, Fiduciary Consultants Inc., Sageview Consulting, Callan and Associates, and Mercer Consultant Services. Mercer had some exceptions to the standard contract language. Mercer would not remove their exceptions and had to withdraw from the process. The Committee will now be reviewing 6 of the 7 responses. They are meeting this afternoon to do consensus scoring on them. Up to the top three finalists will present next week in front of the Employee Investment Advisory Council. They will then be presented to the Board for their approval. From there the top scoring offeror will be presented to procurement and they will then make the contract offer to that top scoring offeror.

Staffing Updates – Roxanne Minnehan

Ms. Roxanne Minnehan reported on the following MPERA staffing:

- IT Programmer – Posted externally and closed May 23, 2007. We received two applications, one of which was not qualified and the other was interviewed. No word yet on how the interview went with the applicant.
- Auditor – Posted externally and closed May 23rd. We received one application, so it was decided to re-open for a larger pool of applicants. The new closing date is June 18, 2007. We are anticipating new college graduates to apply for the position.

Board of Investments Update – John Paull

In February the Board of Investments issued an RFP for large cap managers. They had over 100 responses to the RFP. Staff and RV Kuhns scored the finalists around the 21st of May. They selected some managers. They interviewed three finalists in the Long-only Value category; out of the three they selected two, which were Borrow, Hanley, Lewiney & Strouse, and Quantitative Management Associates. In the Long-only Growth category they interviewed four and out of the four selected three; Columbus Circle, The Renaissance Group, and Rainier Investment Management. In the Partial Long-short category they interviewed five and selected four. They are Analytic Investors, State Street Global Advisors, Martingale Asset Management and J.P. Morgan Asset Management. They are in the contract phase right now. They have plans of initiating these accounts in late July or early August.

Litigation Update – Melanie Symons and Scott Miller

Scott Miller reported on the *Baumgardner* case – We won the case. The decision was included in the Board packets. They have until June 25, 2007 to file an appeal. Mr. Miller has not heard anything on whether or not they will appeal the decision.

Melanie Symons reported on the *Teichrow* lawsuit – We won the case. The appeal time will expire on July 16, 2007.

Melanie Symons reported on the *MANG* case – Ms. Symons has the Brief filed from Supreme Court on this case, which we have been looking for. Some time ago, Judge McCarter stated that the legislation was unconstitutional that only allowed new members of the Air National Guard to go into FURS. This is the appeal of that decision. Finding the legislation to be unconstitutional should mean the whole legislation is void, which would mean that no one in MANG should be in FURS. But all is remaining status quo until this case is resolved.

Future Board Meetings – Thursday: July 12, August 9, September 13, 2007.

EIAC Meeting – Investment Consultant Candidate Presentations, June 21

Up to three finalists will be presenting to the EIAC on Thursday, June 21.

SAVA Committee Meeting – June 21

Thursday, June 21, SAVA is holding their first organizational meeting. The Board members were provided with a copy of “The Interim” Legislative newsletter in their Board packets. Ms. Minnehan gave an explanation of the legislative newsletter. Mr. Terry Smith voiced concerns regarding the bill that is trying to make the only retirement plan option a Defined Contribution Plan. Mr. Smith discussed that they are going to have their work cut out for them showing that they have an established, suitable Defined Contribution (DC) Plan for our participants as an option and cutting off the option of the Defined Benefit Plan would be a huge mistake for both the state and state employees. He is wondering what steps need to be taken to show this and what help the Board can provide. He stated that one of the misperceptions of the legislature is that the Defined Contribution Plan is not their creation. One of the issues that he has is that there

has never been an opinion on the implementation of the plan from an actuary. He believes the Board should consider going to the original actuary that the legislature hired and have him look at how we implemented the plan. Obtaining an opinion from the designing actuary will help support our plan with the legislature and the SAVA Committee before the next session to build support for them buying into our DC Plan. At the same time, it would create a game plan for supporting our Defined Benefit Plan and the importance that the DB plan represents to both the state as an employer and as a state with people who are retired and collecting benefits throughout the state. It was then discussed how we would go about getting the actuaries to talk to the committee when they are not under contract with us. Mr. Smith stated that we should take the steps on our part to contract with these individuals. He believes it is in the vested interest of our DC participants to get that opinion on the plan. Mr. Troy McGee stated that he doesn't see a great advantage of not using the actuary that we have now to evaluate the existing DC Plan. Mr. Smith stated that he believes there was a disconnect between the actuary that implemented our plan, Mark Johnson and the actuaries that designed our plan. Ms. Minnehan stated that she agrees with Mr. McGee, our actuary didn't implement the plan, we implemented the plan and he evaluated it afterwards. He continues to evaluate our plan yearly. The legislature chose to do this study and they should fund the cost. There was a lot of up-front work and research that went into this DC Plan before it went into effect. It is an expensive process. The lobbyists will be attending the SAVA Committee meetings and will keep the Board up to date on its' progress.

Volunteer Firefighters' Association Meeting – Chinook, June 7

Roxanne Minnehan attended the Volunteer Firefighters' Association Meeting in Chinook and gave a presentation on the Volunteer Firefighters' Compensation Act. She updated the Board on how the meeting went and what concerns were expressed at the meeting.

Montana State Fireman's Association Annual Convention – Lewistown, July 18-20

Ms. Minnehan will also be attending the Montana State Fireman's Association Annual Convention in Lewistown.

Informational Summary Reports

Included in the Board packets were the following reports:

- Operational Summary Report
- Retirement Plan Transfers
- DCRP Asset Projections FY 2007
- DCRP Assets by Investment Option
- 457 Deferred Compensation Plan Assets by Investment Option

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.

SYNOPSIS OF THE CLOSED MEETING

The minutes of the regular closed meeting of May 10, 2007 were presented. Mr. Troy McGee moved to approve the minutes of the May 10, 2007 meeting. Mr. Robert Griffith seconded the motion, which upon being submitted to vote, was duly carried with all seven members voting aye.

The minutes of the special closed meeting of March 27, 2007 were presented. Mr. Terry Smith moved to approve the minutes of the March 27, 2007 meeting. Mr. Troy McGee seconded the motion, which upon being submitted to vote, was duly carried with the six attending members voting aye. Mr. John Nielsen abstained due to his absence from the March 27, 2007 meeting.

Contested Cases

Informal Consideration – PERS, Service Credit, JK

Ms. Kim Flatow presented this case to the Board. JK worked in a part-time capacity. Recently JK requested and received retirement estimates. When preparing these estimates, service credit for June 1961 through December 1972 was corrected to reflect actual service. JK is disputing the service credit estimates for this time frame. JK would like to be given full years of service credit for the years in question, when we have a letter from the employer stating that JK worked part-time. Mr. Robert Griffith moved to uphold the previous staff determination regarding the service credit available to JK from 1961-1972. Mr. Jay Klawon seconded the motion. The motion carried 7 to 0. Mr. John Paull made a motion to send a letter to JK's employer asking for information to clarify the letter that was in JK's file. Mr. Terry Smith seconded the motion. The motion carried 4 to 3. Mr. Jay Klawon, Mr. Troy McGee and Mr. Robert Griffith voted nay.

Informal Consideration – PERS, Retirement Benefit, TB

Ms. Kim Flatow presented this case to the Board. TB received a retirement estimate in November 2006. In the estimate, TB's teaching service was inadvertently added twice. The service error was corrected upon discovery. The correction of service resulted in a decrease in monthly benefit of service. TB is appealing the correction to the monthly benefit. TB would like the incorrect amount of service shown on the estimate to remain as part of the retirement benefit calculation. Ms. Flatow stated that our statutes require that if we find an error we have to correct it. Mr. Troy McGee moved to uphold the previous staff determination and correct the retirement benefit for TB. Mr. Robert Griffith seconded the motion. The motion carried 6 to 1. Mr. Jay Klawon voted nay.

Retirement Report

- Disability Claims/Reviews:
 - JC has worked as an Employment Services Specialist. JC has been diagnosed with anxiety, depression, and neurofibromatosis. Dr. McEvoy has reviewed the case and he does not believe that the anxiety and depression was bad enough to preclude JC from work. JC treats with a chiropractor for her neurofibromatosis. There is nothing in the records that indicate that JC's problems got better when JC stopped employment so the Disability Examiner is recommending denial. Mr. Troy McGee moved to deny

disability benefits. Mr. Robert Griffith seconded the motion. The motion carried 6 to 0. Mr. Jay Klawon abstained due to conflict of interest.

- MB has worked as a Claims Adjuster. MB has been diagnosed with reversible ischemic neurological deficits and Transient Ischemic Attacks (TIA). MB's initial claim was approved in January 2006. The treating physician is saying that it is detrimental for MB to return to work, however, she is not a specialist and the information that she is basing this on is not evident. The Disability Examiner and the reviewing physician Dr. McEvoy believe that MB is able to go back to work. Mr. Troy McGee moved to require MB to see a panel of physicians in Missoula or disability will be discontinued. Mr. Robert Griffith seconded the motion. The motion passed 6 to 0. Mr. John Nielsen abstained due to conflict of interest.
- Finalized Service Retirements Disability Benefit Payments

The Finalized Service Retirements/Disability Benefit Payments report was presented. Mr. Terry Smith made a motion to approve the finalized service retirements and disability benefit payments. The motion was seconded by Mr. John Nielsen. The motion carried 7 to 0.

Contested Case/Litigation Updates – Melanie Symons

Ms. Melanie Symons reported on the *JKT* contested case – JKT did not appeal so it will be coming off the track report.

Ms. Melanie Symons reported on the *SCW* contested case – We got the bill from the AG for May and SCW was not on the bill. Ms. Symons stated that now that she is back in town she will get a hearing set up.

Mr. Scott Miller reported on the *B* case – We won the case. The plaintiff has until June 25, 2007 to appeal.

Mr. Scott Miller reported on the *LGSD* – The information that they submitted to us is still being looked at. We are waiting to hear from TRS.

ADJOURNMENT

There being no other business before the Board, Mr. Jay Klawon moved to adjourn the meeting. Mr. Robert Griffith seconded the motion. The motion passed with all seven votes. Mr. John Paull adjourned the meeting at approximately 12:05 pm. The next meeting is scheduled for July 12, 2007, at 8:30 a.m. in Helena.